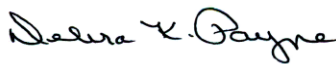
 <p style="text-align: center;">POLICIES AND PROCEDURES</p> <p style="text-align: center;">State of Tennessee Department of Intellectual and Developmental Disabilities</p>	<p>Policy #: 100.1.1</p>	<p>Page 1 of 12</p>
<p>Policy Type: Intermediate Care Facilities for Individuals with Intellectual Disabilities</p>	<p>Effective Date: - September 1, 2013</p>	
<p>Approved by:</p> <p style="text-align: center;"></p> <p>Commissioner</p>	<p>Supersedes: March 2011 and May 28, 2013 Policies</p> <p>Last Review or Revision: Revised May 28, 2013; Amended September 1, 2013</p>	
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- I. **AUTHORITY:** Tennessee Code Annotated (TCA) 4-3-2708, TCA 33-1-303(3), TCA 33-2-402 (1), TCA 33-2-402 (8), TCA 33-2-402 (9), TCA 68-11-1001, 42 CFR 483.420 (a).
- II. **PURPOSE:** The purpose of this policy is to set forth specific requirements to ensure the protection and safety of persons served in the Intermediate Care Facilities for Individuals with Intellectual Disabilities (ICFs/IID), developmental centers, and the Harold Jordan Center operated by the Tennessee Department of Intellectual and Developmental Disabilities (DIDD).
- III. **APPLICATION:** This policy is applicable to all employees, contract staff and volunteers who provide services and supports to persons residing in DIDD ICFs/IID, developmental centers and the Harold Jordan Center.
- IV. **DEFINITIONS:**
 - A. **Abuse**, as defined in TCA 33-2-402, means the knowing infliction of injury, unreasonable confinement, intimidation, or punishment with resulting physical harm, pain, or mental anguish.

DIDD recognizes three subcategories of actions which may constitute abuse under the statutory definition:
 1. **Emotional/Psychological Abuse:** actions including, but not limited to, humiliation, harassment, threats of punishment or deprivation, intimidation or demeaning/derogatory communication (oral, written, gestures) directed to or within eyesight or audible range of the person supported.
 2. **Physical Abuse:** actions including, but not limited to, any physical motion or action as well as the use of any unauthorized restrictive or intrusive procedure. Takedowns and prone restraints are considered to be physical abuse.
 3. **Sexual Abuse:** any type of sexual activity or contact between a person supported and anyone affiliated with a DIDD ICF/IID as a staff person, an employee of a contracted entity or a volunteer. This includes, but is not limited to, actions whereby a person supported is coerced into sexual activity (forced, tricked, induced or threatened) or is exposed to sexually explicit material or language unless otherwise specified in a plan. Sexual abuse occurs whether or not a person supported is able to give consent to such activities. Sexual contact by an authority figure, as defined in TCA 39-13-527 is also considered sexual abuse.

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- B. Act of Sexual Aggression** shall mean a reportable incident involving contact of an aggressive sexual nature by a person served toward any other person.
- C. Administrator** means the director or chief officer of the facility or his or her designee.
- D. ANE:** an abbreviation for Abuse, Neglect and/or Exploitation
- E. ANPC** means the Abuse and Neglect Prevention Committee of the ICF/IID.
- F. Commissioner** means the Commissioner of DIDD.
- G. Criminal Conduct or Probable Criminal Conduct** shall mean a reportable incident involving a person supported who is arrested or is subject to arrest for a criminal offense.
- H. DIDD or “Department”** refers to the Tennessee Department of Intellectual and Developmental Disabilities.
- I. Exploitation**, as defined in TCA 33-2-402 (8), shall mean actions including, but not limited to, the deliberate misplacement, misappropriation or wrongful temporary or permanent use of a person’s belongings or money, in the amount of \$50 or more within a sixty (60) calendar day period, with or without the person’s consent. The illegal or improper use of a person’s resources for another’s benefit or advantage is considered exploitation. The provider is required to reimburse the person regardless of the amount of money involved.
- J. ICF/IID** means intermediate care facility for persons with intellectual or developmental disabilities. For purposes of this policy, the term ICF/IID shall include the DIDD-operated community homes, developmental centers and the Harold Jordan Center.
- K. Incident Management Coordinator (IMC)** shall mean the ICF/IID employee who is responsible for ensuring the implementation of this policy.
- L. Incident Review Committee (IRC)** shall mean an ICF/IID committee with a defined membership and meeting schedule with responsibility to monitor the reporting of incidents, review incidents and investigation reports, provide recommendations and identify trends regarding reportable incidents.
- M. Incident Risk Review** shall mean an analysis of data conducted by the person’s Circle of Support for the purpose of developing a plan designed to prevent or reduce risk of harm to a person supported.
- N. Investigations Review Committee (DIDD Central Office)** shall mean the committee in DIDD’s Central Office responsible for reviewing investigations on a discretionary basis.
- O. Investigations Hotline or “ANE Investigations Hotline”** is the toll-free telephone number for reporting incidents to the DIDD regional Office of Investigations. This number is answered 24 hours a day.
- P. Investigations Review Committee (ICF/IID)** shall mean a committee of employees of the ICF/IID with a defined membership and meeting schedule responsible for reviewing each final investigation report and recommending appropriate remedial and corrective actions to the Administrator.
- Q. Minor Injury** shall mean any apparent or confirmed physical harm which does not require assessment and treatment beyond basic first aid that could be administered by a lay person. For purposes of this policy, a minor injury may be self-inflicted or inflicted by

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another person; it may be accidentally or intentionally caused; the action may have been witnessed or not; and the cause of the injury may be known or unknown.

- R. Investigator for Abuse, Neglect and Exploitation** or “**Investigator for ANE**” shall mean a person who is responsible for investigating serious injuries of unknown cause, suspicious injuries, deaths that are suspicious, unexpected or unexplained and allegations of abuse, neglect and exploitation.
- S. Minor Injury of Unknown Cause** shall mean any minor injury that is not alleged or suspected to be the result of abuse or neglect; the cause of the injury was not witnessed by any person; and the origin of the injury could not be explained by staff or the person supported.
- T. Neglect**, as defined in T.C.A. 33-2-402 (9), shall mean the failure to provide goods or services necessary to avoid physical harm, mental anguish or mental illness, which results in injury or probable risk of serious harm.

Employees should be aware that neglect towards a person supported includes being on duty while impaired or under the influence of alcohol, illegal substances or prescription drugs without a valid current prescription for the drug. If a staff person has a valid current prescription for a drug and is impaired while on duty from the prescription drug, this shall be considered neglect. Neglect may also include inattention to duties and deviation from a plan of care.

- U. Reportable Incident** shall mean incidents involving a person supported for which reporting is required. These incidents are classified by the IMC either as Level 1 or Level 2 incidents.
- a. For those incidents that are deemed to be **Level 1** incidents (i.e. incidents in which risk of harm or harm sustained is greater) notice is given to the IMC and to the Administrator who in turn submits a report to the DIDD Central Office.
 - b. For those incidents that are deemed to be **Level 2** (i.e. risk of harm sustained is minimal), notice is given to the IMC and the Administrator, but not to DIDD Central Office.
- V. Serious Injury** shall mean physical harm to a person supported which requires treatment beyond basic first aid that could be administered by a lay person. Assessment and treatment for a serious injury is in a hospital emergency room, in an urgent care center or from a physician, nurse practitioner or physician's assistant. Serious injury includes but is not limited to, fracture, dislocation, traumatic brain injury (e.g. concussion), laceration requiring sutures (or Dermabond or steri-strips when used in place of sutures/staples), torn ligaments, second and third degree burns, or loss of consciousness. Other types of injuries such as bruises, abrasions, sprains and muscle strains can rise to the level of serious if they are diagnosed as serious or severe by a health care professional. For purposes of this policy, a serious injury may be self-inflicted or inflicted by another person; it may be accidentally or intentionally caused; the action may have been witnessed or not; and the cause of the injury may be known or unknown.
- X. Serious Injury of Unknown Cause** shall mean a reportable incident in which the cause of the serious injury was not witnessed and could not be explained by DIDD staff or the person supported.
- Y. Suspicious Injury** shall mean a reportable incident involving physical injury to a person supported that may have been the result of abuse or neglect or is not consistent with the explanation provided. The nature or extent of the injury or other circumstances raises suspicion of abuse or neglect. The injury can be minor or serious, but there must be a reason to suspect the injury was the result of abuse or neglect.

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Z. Suspicious, Unexpected or Unexplained Death shall mean a reportable incident involving the death of a person supported that did not result from the normal progression of a known medical condition or disease.

V. POLICY: People supported in every ICF/IID operated by DIDD have the right to live free from physical, sexual and psychological harm or the threat of such harm. Assuring the protection and safety of persons supported is a primary mission of the Department. Abuse, neglect, exploitation and other mistreatment of persons supported is unacceptable and will not be tolerated. DIDD has established and will continue to employ a robust system of Protection From Harm. In the ICFs/IID, this system includes specific requirements for the prompt reporting, investigation and evaluation of incidents, identification of steps for the prevention of such incidents in the future and disciplinary measures for staff who commit acts of ANE or otherwise mistreat persons under their care. The management of DIDD-operated ICFs/IID is fully committed to compliance with applicable CMS regulations for the protection from harm of persons supported.

VI. PROCEDURES:

A. The following Level 1 categories of incidents shall be reported immediately upon occurrence or discovery to the DIDD ANE Investigations Hotline, and a Reportable Incident Form (RIF) shall be completed and submitted to the Incident Management Coordinator, the Administrator and the ANE Investigations Office for that region.

1. Alleged or suspected abuse, neglect or exploitation
2. Serious injury of unknown cause
3. Suspicious injury whether minor or serious
4. Unexplained or unexpected death of a person supported
5. Any use of a take down or prone restraint

B. The following categories of incidents are also designated Level 1 Reportable Incidents. The Administrator or designee will be notified, and a Reportable Incident Form (RIF) shall be completed and submitted to the Incident Management Coordinator who shall review and submit the RIF to the Director of Incident Management at the DIDD Central Office.

1. Death of a person supported
2. The use of a manual or mechanical restraint or protective equipment in response to a behavioral incident
3. A person supported becomes missing
4. Any unplanned hospitalization, including a psychiatric admission, of a person supported
5. Any use of cardiopulmonary resuscitation (CPR) of a person supported
6. Use of any imaging technique to determine whether a person supported has a fracture
7. Any use of an abdominal thrust or Heimlich maneuver to dislodge food or foreign objects from the windpipe of a person supported

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8. Administration on an emergency basis of psychotropic medication in response to a behavioral incident
 9. Any behavioral incident by a person supported which results in a serious injury to another person
 10. An act of sexual aggression by a person supported
 11. Property destruction by a person supported exceeding \$100 in value
 12. A call to 911, an emergency room visit, intervention of a mobile crisis team, use of emergency medical technicians, visit to an urgent care facility or other emergency services for a person supported
 13. Intervention of law enforcement or fire department personnel in response to an incident involving a person supported.
 14. Reasonable suspicion that a crime or probable criminal conduct by a person supported has been committed.
- C. Immediate reporting of incidents shall mean notification as soon as possible and in all cases within one (1) hour of the incident or its discovery. If there is uncertainty as to whether an incident requires immediate reporting, staff shall contact the Investigations Hotline.
- D. The staff witnessing or discovering an incident of the type described in section VI.A. above shall immediately notify the ANE Investigations Hotline. There will be no adverse consequences to a staff person for reporting to the Hotline. However, there are sanctions for late reporting of an incident, as set forth below.
- E. If the decision is made to investigate an incident for alleged ANE, attempts to notify the legal representative of the person supported shall be made as soon as possible and in all cases within twenty-four (24) hours of the opening of the investigation. All efforts made to notify the legal representative shall be documented. If notification has not been achieved within twenty-four (24) hours, reasonable efforts shall continue until the legal representative has been notified.
- F. Notification of other entities, including law enforcement agencies, shall be undertaken if appropriate. Law enforcement and the ICF Surveying Agency shall be notified if there is reasonable suspicion that a crime has been committed against a person supported.
- G. Minor injuries of known or unknown cause are considered Level 2 reportable incidents and shall be reported to the Incident Management Coordinator and the Administrator. The IMC may elect to reclassify the incident as Level 1 if warranted under the circumstances.
- H. The Administrator shall implement a process to ensure immediate response to threats to safety and health, including but not limited to the following:
1. Obtaining medical attention for the person supported, staff or others who are injured or harmed
 2. Immediate correction of any physical hazard that may present a danger or risk
 3. Taking immediate action to address staff conduct that may have caused or contributed to the incident, including prohibiting direct contact between a staff person and persons supported

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4. Making arrangements for any necessary counseling or psychiatric care for the person supported who was involved in the incident.

I. General requirements associated with each reportable incident include:

1. Completion of the RIF by the witness or staff who observed the incident or discovered the occurrence of the incident. The RIF shall include the signature of the person completing the form.
2. All information on the RIF must be legible and complete.
3. All reportable incidents shall be reported to the Incident Management Coordinator no later than the next business day following the incident.
4. For any incident which was reported to the legal representative of the person supported, notice of the resolution of that incident shall also be provided to the legal representative.
5. For incidents reported to the ANE Investigations Hotline but which are referred back to the ICF/IID, the Administrator has the discretion to conduct an investigation. Referral of such cases back to the ICF/IID will be done within one (1) business day by email.
6. The Administrator shall ensure that appropriate actions are taken in a timely manner to correct or address issues or problems identified as a result of reportable incidents, investigations and risk reviews.
7. The Administrator shall respond to questions, requests and recommendations from the Abuse and Neglect Prevention Committee (ANPC) in a timely manner.
8. The Administrator shall maintain documentation of all ANPC recommendations and corrective actions implemented.

J. Investigations

1. The Department reserves the right to conduct an investigation of any incident reported.
2. The Commissioner shall designate qualified and trained personnel to conduct investigations at the ICFs/IID operated by the Department.
3. The results of each ANE investigation shall be submitted to the Administrator within five (5) business days of the occurrence or discovery of the incident.
4. The investigator for ANE shall be responsible for conducting an investigation of any allegation of ANE involving the Administrator or other executive staff and for submitting the investigation report and summary to the Deputy Commissioner for Program Operations. The report shall then be submitted to the Commissioner along with recommendations.

K. Investigation follow-up by the Administrator

1. If there is an allegation of abuse, neglect or exploitation against an employee of the ICF/IID, the Administrator shall take immediate action to remove the employee against whom the allegation was made from direct contact with all persons supported, pending outcome of the investigation.

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2. If a position not involving direct contact with persons supported is available, as determined by the Administrator, work reassignment may be offered to the employee pending outcome of the investigation. Otherwise, the employee will be placed on leave.
 - a. If such a position is not available, or if work reassignment is declined, the employee shall be placed on annual or compensatory leave until the investigation is concluded.
 - b. Annual or compensatory leave taken cannot be reinstated regardless of the outcome of the investigation.
 - c. If there is insufficient accrued annual or compensatory time, the employee shall be placed on unpaid leave.
 - d. In unusual circumstances, the Administrator may request that the employee be placed on paid administrative leave for all or part of the leave period. Any request for administrative leave must be submitted at the beginning of the requested leave period. Retroactive administrative leave will only be granted in exceptional circumstances. All requests for administrative leave are subject to the approval of the Commissioner.
3. After consideration of the likelihood of risk to persons supported, the Administrator may request authorization from the Central Office Director of Protection From Harm or designee to not take any of the actions listed above while the investigation is pending.
4. If there is an allegation of ANE against a contract employee or volunteer, the Administrator shall have the discretion to either offer the person a work reassignment, if available, or to require the individual to remain off work while the investigation is pending.
5. Until an investigation is completed, the circumstances of the incident and the allegations are not to be discussed with anyone except the assigned investigator. The Incident Management Coordinator shall take any steps necessary to ensure this requirement is followed.
6. If an unsubstantiated investigation is challenged by the Administrator and a request for review has been submitted to the Investigations Review Committee at the DIDD Central Office, the employee who is the subject of the investigation shall not be permitted to have direct contact with persons supported until a final decision is made.
7. The final investigation report, as well as the summary of investigation, shall be sent to the Administrator, who shall give notice of the outcome to the person(s) who is the subject of the investigation.
8. Upon receipt of the investigation report, the Administrator shall direct that an appropriate representative confer, within fifteen (15) business days, with the person supported and, if appropriate, his or her legal representative, to discuss the pertinent findings from the investigation. The representative shall not disclose the identity of any reporter or information which could identify the reporter. This conference shall be documented by the Administrator's designated representative.

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9. The Administrator shall ensure that the chairperson of the ICF/IID Investigations Review Committee receives the completed investigation report.
 - a. The chairperson of the IRC shall distribute copies of the report to the committee members and schedule a meeting.
 - b. Committee members shall review the report independently prior to the meeting.
 - c. The chairperson shall document the findings and recommendations of the committee and submit them to the Administrator.
 - d. The Administrator may implement any recommendations of the IRC immediately by executive action, incorporate them into the corrective action plan, or both.

L. Corrective Action Plans

1. The Administrator shall review the investigation report and will develop a written corrective action plan. The plan shall be submitted to the regional office, the Deputy Commissioner of Operations and the Commissioner within fourteen (14) calendar days of receipt of the report.
2. The corrective action plan shall address the information contained in the report and shall also include the following:
 - a. Corrective and preventative actions that have or will be implemented, including any disciplinary actions taken
 - b. The time frame or target date for full implementation of the corrective and preventive actions
 - c. Description of individualized supports that have been provided or offered to assist the person supported in coping with the event
 - d. A response to any incidental information noted by the investigator

M. Guidelines for Disciplinary Action

1. The following provisions set forth the minimum disciplinary action to be taken for misconduct identified in investigations. However, the Administrator shall have the discretion, based on the circumstances, to take disciplinary action up to and including termination.
 - a. For substantiated allegations of physical and sexual abuse the minimum disciplinary action shall be termination.
 - b. For substantiated allegations of psychological and emotional abuse the minimum disciplinary action shall be suspension.
 - c. For substantiated allegations of neglect the minimum disciplinary action shall be a written warning.
 - d. For substantiated allegations of exploitation the minimum disciplinary action shall be a written warning.

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- e. For late reporting of incidents resulting in investigations the minimum disciplinary action shall be oral counseling.
- f. For failure to report an incident the minimum disciplinary shall be oral counseling.
- g. For failure to cooperate or interference with an investigation, the minimum disciplinary action shall be a written warning.
- h. Falsification of incident reports or related documentation, making false allegations, providing false or misleading information during an investigation, or withholding information during an investigation is unacceptable. Such conduct may be the basis for disciplinary action up to and including termination.
- i. Any person subject to this policy who retaliates against another person for his or her involvement as a reporter, witness or in any other capacity related to incident management and/or investigation shall be subject to disciplinary action up to and including termination.

- 2. An ICF/IID operated by the Department is not permitted under CMS guidelines to retain an employee if the Administrator becomes aware that the employee has a prior employment history of abuse, neglect or mistreatment, including financial exploitation, of a child or adult, which resulted in termination of employment at another employer or conviction of a crime involving abuse, neglect or mistreatment of a child or adult.

N. Requesting Review of an Investigation

- 1. The Administrator may request a review of an investigation by submitting a written request to the office of the Director of Protection from Harm. The request must be filed within fifteen (15) business days of receipt of the investigation report. The request must be submitted on a completed Request for Investigation Review form. Grounds for review include new or additional evidence not addressed in the DIDD Final Investigation Report that leads to a disagreement with the conclusions from the investigation or information raising a question that the integrity of the investigation may have been compromised.
- 2. A person supported or the legal representative may request a review of an investigation involving the person supported by submitting a written request to the office of the Director of Protection from Harm. The request must be received within fifteen (15) business days of the date of the meeting in which the findings from the investigation were discussed.
- 3. The review will be conducted by the Investigations Review Committee at the DIDD Central Office in accordance with its policies.

O. Incident Review, Management, Corrective and Preventive Action Requirements

- 1. The Administrator shall designate a management level staff person to serve as the Incident Management Coordinator (IMC). The IMC shall have the primary responsibility for ensuring compliance with this policy.
- 2. The IMC's responsibilities are to:
 - a. Review incidents for timely and appropriate action
 - b. Make appropriate recommendations to the Administrator

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- c. Ensure that all appropriate Level 1 incidents have been reported to the DIDD ANE Investigations Hotline as required by this policy
 - d. Ensure that each Level 1 RIF is typed and complete prior to electronic submission to DIDD Central Office
 - e. Maintain documentation relating to the submission of each RIF
 - f. Ensure that recommendations associated with reportable incidents and investigation reports are addressed and that corrective action plans are adequate and complete
 - g. Follow through until resolution of matters that have been referred back to the ICF/IID for disposition
 - h. Serve as chairperson of the ICF/IID Incident Review Committee
 - i. Conduct appropriate trend studies of reportable incidents and substantiated reports of ANE
 - j. Perform reviews and follow-up until closure of reported incidents
 - k. Monitor to ensure that law enforcement or other appropriate persons or entities were notified if the circumstances of an incident warrant such notification
 - l. Ensure timely response to requests for information as well as findings and recommendations associated with reported incidents and investigations
 - m. Ensure that a risk review is conducted by the Circle of Support for each person supported who was involved, or the victim, in a reportable incident if the person supported presents significant risks to the safety of himself or others. The risk review is to be reviewed by the Incident Review Committee.
3. The ICF/IID shall establish an Incident Review Committee with a defined membership and meeting schedule. An ICF/IID may also conduct additional incident reviews in team meetings or other group formats as the Administrator may direct.
4. Membership of the Incident Review Committee will be determined by the Administrator but must include the Incident Management Coordinator, as chairperson, and two management level employees of the ICF/IID.
5. The Incident Review Committee's functions and responsibilities are to:
- a. Monitor and ensure the proper reporting of incidents
 - b. Review incidents and incident reports, investigation reports, risk reviews and make appropriate recommendations to the Administrator
 - c. Ensure implementation of approved corrective actions and recommendations

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- d. Identify trends regarding reported incidents
 - e. Identify and assess individual risk issues through the risk review process described below.
6. The Incident Review Committee shall meet every other week, or more frequently as may be necessary. Meetings of the committee may be deferred in the event that there is no pending business.
7. The Incident Review Committee is also responsible for reviewing trends and patterns related to reportable incidents, including substantiated incidents of ANE, and shall implement procedures for the completion of an annual written analysis by the committee of these findings. The annual report shall be available to staff who request a copy. The report shall be sufficiently detailed to provide the following information:
- a. Assessment of increasing and decreasing rates of specific types of reportable incidents including ANE
 - b. Assessment of increasing and decreasing rates of reportable incidents that resulted in serious injuries, serious medical illnesses/conditions and serious mental health/behavioral consequences
 - c. Assessment of persons supported who have higher than average numbers of reportable incidents or multiple similar incidents
 - d. Assessment of programs and/or homes with a higher than average number of reported incidents or substantiated investigations
 - e. Identification of staff and supervisors whose involvement in multiple incidents give rise to concern on the part of the committee members
 - f. Providing any appropriate recommendations from these analyses to the Administrator
8. The Incident Review Committee shall keep detailed minutes of its meetings, findings or conclusions, and recommendations. Final determinations and actions taken regarding reportable incidents shall be documented on or as an addendum to the RIF.
9. An incident risk review by the person's Circle of Support shall be required for any person served who meets one or more of the following criteria:
- a. Two or more serious injuries occurring during the preceding eighteen (18) months
 - b. Two or more substantiated investigations of ANE during the preceding eighteen (18) months
 - c. A lengthy convalescence or permanent impairment due to a serious injury
 - d. A serious injury due to substantiated abuse, neglect or exploitation
 - e. The health status of the person served has declined significantly

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without a known cause, but under circumstances which, in the opinion of the Committee members, warrant evaluation or investigation

10. The Incident Review Committee shall maintain in written form the information collected in a risk review as well as its own findings or conclusions and recommendations in a particular case. A copy of this documentation shall be reviewed by the IMC who shall add any comments or additional information, and then make these materials available to the Administrator.